IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 74 OF 2006

IN

WRIT PETITION NO. 1004 OF 2003

KAMLAKANT KAREKAR ... PETITIONER.

VS.

THE MUNICIPAL COMMISSIONER

AND ANR. ... RESPONDENTS.

MR. VINAY HEGDE FOR THE PETITIONER.

MS. A.R.JOSHI FOR THE RESPONDENTS.

CORAM: S.K.SHAH,J.

DATE : September 15, 2006.

P.C.

1. Heard the learned Counsel on both sides.

2. The Contempt is alleged of the Order, dated 15th July, 2003, passed in writ petition, of the directions in paragraph No. 3 of the said Order. In the first portion of paragraph No. 3, liberty is given to the petitioner to make necessary application to the concerned Authority in respect of the removal of the roof of the ground floor. In the latter part of paragraph No. 3, what is observed, is as under :-

"We observe that by carrying out the demolition, pursuant to the notices under Section 351 of the Act of 1988, if any damage has ben caused to the part of the building, not covered by the notices under Section 351, upon application made by the respondent, the authority of the Municipal Corporation of Greater Bombay shall pass appropriate order, after hearing the said respondents and the petitioner"

. This makes it clear that if the application is made, the hearing shall be given by the Municipal Corporation Authority, is only in respect of the application, making grievance about the excess damage caused to the property, not covered by the notices under Section 351 of the Act.

3. The petitioner's grievance is that he has made an application for putting up roof, which liberty is covered by the first part of the Order. No directions have been given in regard. Therefore, there is no question of any contempt having been committed of the said Order. The contempt petition is, therefore, dismissed.

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(S.K.SHAH,J.)